

**Amendments To The Drawings:**

Please add accompanying Figure 14.

## **REMARKS**

This Amendment is in response to the Office Action dated **December 5, 2006**. Each issue in the Official Action is addressed below.

### ***Drawings***

The drawings were objected to under 37 CFR 1.83(a). It is asserted that the element of claim 20 which is located between to edges of the bag that do not define the bag opening is not shown and must be shown or the feature canceled from the claim.

Claim 20 has been canceled; however, new claim 32 claims the subject matter. Applicant is amending the drawings by adding new figure 14 to show the element of canceled claim 20 and new claim 32. The Specification is also being amended to identify figure 14. Support may be found, among other places, in original claim 20 and on page 24, lines 16-18, of the application. No new matter has been added.

### ***Specification***

The disclosure is objected to because of informalities. It is asserted that, on page 2, line 17, "Minica" should be spelled – Miniea-.

In response, the specification is being amended to correct the error.

### ***§102 Rejections***

*(4)*

Claims 1, 2, 4, 7, 10-11, 13-16, 18-19, 21 and 22 were rejected under 35 USC §102(e) as being anticipated by Huffer (US PG-Pub 2003/0152296A1). A full account of the rejection can be found on pages 3-4 of the official action.

The claims have been amended to better claim the subject matter that Applicant believes to be his invention. The amendments should not be construed to be an admission that Huffer anticipates the claimed invention prior to the above amendments. Claims 10-11, 13-16, 18-19, 21 and 22 were canceled in the restructuring of the claims.

Huffer does not anticipate the amended claims. Huffer discloses a vented bag for microwave cooking. Huffer teaches a bag which has a zipper closure. The zipper is opened and

closed by a slider. At the end of the bag opening is an element having an open passageway 48. This passageway is also referred to in the description as “internal passage” 54. The rearward end portion 64 of the slider fits over end 58 of passageway 48. There is an opening 76 in the rearward end portion 64, which lines up with end 58 of passageway 48. The opening 76 is covered by a burstable seal 78. Thus, when the bag is heated in the microwave and gas pressure builds up in the bag, the burstable seal 78 bursts, thus allowing steam to escape. However, before that pressure is reached, liquid is not permitted to leak out of the bag because the slider and burstable seal 78 keep the liquid inside the bag.

Huffer is very different from the present invention, because the only purpose of the passageway in Huffer is to vent steam during microwave use. The only way to close the passageway of Huffer is to move the slider to the closed position. There is no valve in the passageway of Huffer which permits the passageway to be selectively closed when the opening of the bag is closed, as required by the claims. Rather, once the burstable seal bursts, there is no way to close the passageway. New claim 1 requires that the bag include a valve for selectively opening and closing the passageway when the opening is closed. Huffer lacks this feature. Withdrawal of the rejection is therefore requested.

(5)

Claim 20 was rejected under 35 USC §102(e) as being anticipated by ErkenBrack (US 6964519). A full account of the rejection can be found on page 4 of the official action.

As mentioned above, claim 20 has been canceled.

### ***§103 Rejections***

(6)

Claim 3 was rejected under 35 USC §103(a) as being unpatentable over Huffer (US PG-Pub 2003/0152296A1). It is asserted in the rejection that, while the one way valve of Huffer allows access to the outside area from the bag interior, it would have been obvious to one of ordinary skill in the art to rearrange the parts, specifically to switch the direction of the flapper valve in order to allow access to the interior from the outside. It has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPO 70.

Applicant respectfully disagrees. New claim 1, upon which claim 3 depends, requires that the bag include a valve for selectively opening and closing the passageway when the opening is closed. Huffer lacks this feature. Still further, it would not have been obvious to one of ordinary skill in the art to rearrange the parts because there is no cited motivation to do so.

“The mere fact that a worker in the art could rearrange the parts of the reference device to meet the terms of the claims...is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for the worker in the art, without the benefit of appellant’s specification, to make the necessary changes in the reference device.” *Ex parte Chicago Rawhide Mfg. Co.*, 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984).

The only purpose of the passageway in Huffer is to vent steam during microwave use. Altering the bag of Huffer as asserted in the rejection would not just mean rearranging parts, it would mean changing parts to serve a different purpose. There is no cited motivation to alter the bag of Huffer as asserted in the rejection and therefore claim 3 is not obvious in light of Huffer. Withdrawal of the rejection is therefore requested.

(7)

Claims 5, 6 and 17 were rejected under 35 USC §103(a) as being unpatentable over Huffer (US PG-Pub 2003/0152296A1) in view of Haberman (US 6116457). A full account of the rejection is found on pages 5-6 of the official action.

Applicant disagrees with the rejection of claims 5 and 6. In the reorganization of the claims, claim 17 has been cancelled. New claim 1, upon which claims 5 and 6 depend, requires that the bag include a valve for selectively opening and closing the passageway when the opening is closed. Huffer lacks this feature. As such, the rejection fails to provide for each and every element.

Still further, Applicant’s claimed invention is not made obvious by the combination because there is no motivation or suggestion to modify the device of Huffer as suggested in the rejection. As stated in MPEP § 2143, the teachings or suggestion to make the claimed combination or modification and the reasonable expectation of success must both be found in the prior art and not in applicant's disclosure. *In re Vaeck*, 947 F. 2d 488 (Fed.

Cir.1991). Applicant contends that the rejection uses the teachings of the Applicants' application for motivation to modify the device of the Huffer patent. If a proposed modification renders the cited reference unsatisfactory for its intended purpose, there is no suggestion to make the proposed modification. *In Re Gordon*, 733 F. 2d 900 (Fed. Cir.1984). Applicant asserts that to modify the device of the Huffer patent as suggested by the Examiner would render it unsatisfactory for its intended purpose. If the Examiner's modification to the device of the Huffer patent were made, the burstable seal would be rendered useless. The only way to close the passageway of Huffer is to move the slider to the closed position. There is no valve in the passageway of Huffer which permits the passageway to be selectively closed when the opening of the bag is closed, as required by the claims. Rather, once the burstable seal bursts or is broken with a straw, there is no way to close the passageway. Thus, the Huffer patent would not work for its intended purpose, which is to be a resealable bag that is vented for microwave cooking of sealed food products. Therefore, claims 5 and 6 are patentable over the Huffer patent in view of Haberman.

(8)

Claims 8 was rejected under 35 USC §103(a) as being unpatentable over Huffer in view of Buchman (US 6698926). A full account of the rejection is found on page 6 of the official action.

In the reorganization of the claims, claim 8 has been canceled.

(9)

Claims 8 and 9 were rejected under 35 USC §103(a) as being unpatentable over Huffer (US PG-Pub 2003/0152296A1) in view of Plourde (US PG-Pub 2003/0235351). A full account of the rejection is found on pages 6-7 of the official action.

In the reorganization of the claims, claims 8 and 9 have been canceled.

(10)

Claim 12 was rejected under 35 USC §103(a) as being unpatentable over Huffer (US PG-Pub 2003/0152296A1) in view of Savicki (US 6431754). A full account of the rejection

is found on pages 7-8 of the official action.

In the reorganization of the claims, claim 12 has been canceled.

(11)

Claims 18 and 20 were rejected under 35 USC §103(a) as being unpatentable over ErkenBrack (US 6581253) in view of ErkenBrack (US 5142970). A full account of the rejection is found on page 8 of the official action.

In the reorganization of the claims, claims 18 and 20 have been canceled.

***Miscellaneous***

Newly added claim 33 is directed to a slider. The slider of claim 33 is different from that disclosed in Huffer. The slider disclosed in Huffer does not have a selectively openable and closable passageway. The passageway through the slider of Huffer is covered by the burstable seal and can only be opened once and cannot be selectively closed.

Newly added claim 35 is an independent claim directed to a method of closing a bag. Claim 35 requires that access to the bag interior through a passageway in the slider takes place by attaching a tube to the passageway. This is not disclosed in Huffer.

The prompt allowance of these claims is earnestly solicited. If the Examiner wishes to discuss further issues, he is invited to contact the undersigned.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: April 16, 2007

By:

A handwritten signature in black ink, appearing to read 'WES A', written over a horizontal line.

William E. Anderson II  
Registration No.: 37766

Enclosure: Replacement Drawing  
Figure 14

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